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HOUSE BILL 359

**47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006**

INTRODUCED BY

Ben Lujan

AN ACT

RELATING TO TAXATION; INCREASING THE FILM PRODUCTION TAX CREDIT; REPEALING THE NEW MEXICO FILMMAKER TAX CREDIT; AMENDING AND REPEALING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-2F-1 NMSA 1978 (being Laws 2002, Chapter 36, Section 1, as amended) is amended to read:

"7-2F-1. FILM PRODUCTION TAX CREDIT.--

A. The tax credit created by this section may be referred to as the "film production tax credit". An eligible film production company may apply for, and the taxation and revenue department may allow, a tax credit in an amount equal to ~~[fifteen]~~ twenty percent of:

(1) direct production expenditures made in New Mexico that are directly attributable to the production in New

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1 Mexico of a film or commercial audiovisual product and that are  
2 subject to taxation by the state of New Mexico; and

3 (2) postproduction expenditures made in New  
4 Mexico that are:

5 (a) directly attributable to the  
6 production of a commercial film or audiovisual product;

7 (b) for services performed in New  
8 Mexico; and

9 (c) subject to taxation by the state of  
10 New Mexico.

11 B. The film production tax credit shall not be  
12 claimed with respect to direct production expenditures or  
13 postproduction expenditures for which the film production  
14 company has delivered a nontaxable transaction certificate  
15 pursuant to Section 7-9-86 NMSA 1978.

16 C. A long-form narrative film production for which  
17 the film production tax credit is claimed pursuant to Paragraph  
18 (1) of Subsection A of this section shall contain an  
19 acknowledgment that the production was filmed in New Mexico.

20 D. To be eligible for the film production tax  
21 credit, a film production company shall submit to the New  
22 Mexico film division of the economic development department  
23 information required by the division to demonstrate conformity  
24 with the requirements of this section and shall agree in  
25 writing:

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1 (1) to pay all obligations the film production  
2 company has incurred in New Mexico;

3 (2) to publish, at completion of principal  
4 photography, a notice at least once a week for three  
5 consecutive weeks in local newspapers in regions where filming  
6 has taken place to notify the public of the need to file  
7 creditor claims against the film production company by a  
8 specified date;

9 (3) that outstanding obligations are not  
10 waived should a creditor fail to file by the specified date;  
11 and

12 (4) to delay filing of a claim for the film  
13 production tax credit until the New Mexico film division  
14 delivers written notification to the taxation and revenue  
15 department that the film production company has fulfilled all  
16 requirements for the credit.

17 E. The New Mexico film division shall determine the  
18 eligibility of the company and shall report this information to  
19 the taxation and revenue department in a manner and at times  
20 the economic development department and the taxation and  
21 revenue department shall agree upon.

22 F. To receive a film production tax credit, a film  
23 production company shall apply to the taxation and revenue  
24 department on forms and in the manner the department may  
25 prescribe. The application shall include a certification of

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1 the amount of direct production expenditures or postproduction  
2 expenditures made in New Mexico with respect to the film  
3 production for which the film production company is seeking the  
4 film production tax credit. If the requirements of this  
5 section have been complied with, the taxation and revenue  
6 department shall approve the film production tax credit and  
7 issue a document granting the tax credit.

8 G. The film production company may apply all or a  
9 portion of the film production tax credit granted against  
10 personal income tax liability or corporate income tax  
11 liability. If the amount of the film production tax credit  
12 claimed exceeds the film production company's tax liability for  
13 the taxable year in which the credit is being claimed, the  
14 excess shall be refunded."

15 Section 2. REPEAL.--Section 7-2G-1 NMSA 1978 (being Laws  
16 2005, Chapter 337, Section 1) is repealed.

17 Section 3. EFFECTIVE DATE.--The effective date of the  
18 provisions of this act is July 1, 2006.